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8 **UNITED STATES DISTRICT COURT**
9 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**
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11 ROGELIO AVILES, an individual; and
12 CLAUDIA CHAVES, an individual,

13 Plaintiffs,

14 v.

15 THOR MOTOR COACH, INC., a
16 Delaware Corporation; and
DOES 1 through 20, inclusive,

17 Defendants.
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Case No. 5:25-cv-01132-JWH-SHK

**ORDER DENYING PLAINTIFFS'
MOTION TO REMAND [ECF
No. 12]**

1 Before the Court is the motion of Plaintiffs Rogelio Aviles and Claudia
2 Chaves to remand this action to Los Angeles County Superior Court.¹ The
3 Court concludes that this matter is appropriate for resolution without a hearing.
4 *See* Fed. R. Civ. P. 78; L.R. 7-15. After considering the papers filed in support
5 and in opposition,² the Court **DENIES** Plaintiffs' motion.

6 I. BACKGROUND

7 Plaintiffs filed the instant action against Defendant Thor Motor Coach,
8 Inc. in April 2025 in Los Angeles County Superior Court.³ Plaintiffs assert
9 claims for breach of implied warranty and breach of express warranty under the
10 Song-Beverly Act.⁴ Those claims arise from Plaintiffs' purchase of a 2025 Thor
11 Industry Palazzo GT Motorhome.⁵

12 In May 2025, Thor Motor Coach removed this action to this Court,
13 pursuant to 28 U.S.C. § 1332.⁶ In June 2025, the Court issued an Order to Show
14 Cause directing the parties to file their respective Disclosure Statements
15 pursuant to Rule 7.1 of the Federal Rules of Civil Procedure,⁷ and all parties
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21 ¹ Pls.' Mot. to Remand Case to Los Angeles Superior Court (the
22 "Motion") [ECF No. 12].

23 ² *See id.*; Def.'s Opp'n to Motion (the "Opposition") [ECF No. 18].

24 ³ Compl. (the "Complaint") [ECF No. 1-1].

25 ⁴ *See generally id.*

26 ⁵ *Id.* at ¶ 4.

27 ⁶ Notice of Removal [ECF No. 1].

28 ⁷ Order to Show Cause Regarding Failure to File Rule 7.1 Disclosures
(the "OSC re 7.1 Disclosures") [ECF No. 14].

1 complied.⁸ Also in June 2025, Plaintiffs filed the instant Motion to remand,⁹
2 and it is fully briefed.

3 II. LEGAL STANDARD

4 Federal courts are courts of limited jurisdiction. Accordingly, “[t]hey
5 possess only that power authorized by Constitution and statute.” *Kokkonen v.*
6 *Guardian Life Ins. Co. of Am.*, 511 U.S. 375, 377 (1994). In every federal case, the
7 basis for federal jurisdiction must appear affirmatively from the record. *See*
8 *DaimlerChrysler Corp. v. Cuno*, 547 U.S. 332, 342 n.3 (2006). “The right of
9 removal is entirely a creature of statute and a suit commenced in a state court
10 must remain there until cause is shown for its transfer under some act of
11 Congress.” *Syngenta Crop Prot., Inc. v. Henson*, 537 U.S. 28, 32 (2002) (internal
12 quotation marks omitted). When Congress has acted to create a right of
13 removal, those statutes, unless otherwise stated, are strictly construed against
14 removal jurisdiction. *See id.*

15 To remove an action to federal court under 28 U.S.C. § 1441, the
16 removing defendant “must demonstrate that original subject-matter jurisdiction
17 lies in the federal courts.” *Syngenta*, 537 U.S. at 33. As such, a defendant may
18 remove civil actions in which either (1) a federal question exists; or (2) complete
19 diversity of citizenship between the parties exists and the amount in controversy
20 exceeds \$75,000. *See* 28 U.S.C. §§ 1331 & 1332.

21 The right to remove is not absolute, even when original jurisdiction exists.
22 The removing defendant bears the burden of establishing that removal is proper.
23 *See Abrego Abrego v. The Dow Chem. Co.*, 443 F.3d 676, 684 (9th Cir. 2006)
24 (noting the “longstanding, near-canonical rule that the burden on removal rests

25 ⁸ Def.’s Response to OSC re 7.1 Disclosures (“Defendant’s Disclosure
26 Statement”) [ECF No. 17]; Pls.’ Rule 7.1 Disclosure Statement (“Plaintiffs’
27 Disclosure Statement”) [ECF No. 16].

28 ⁹ *See* Motion.

1 with the removing defendant”); *Gaus v. Miles, Inc.*, 980 F.2d 564, 566 (9th Cir.
2 1992) (“The strong presumption against removal jurisdiction means that the
3 defendant always has the burden of establishing that removal is proper.”)
4 (quotation marks omitted). Any doubt regarding the existence of subject matter
5 jurisdiction must be resolved in favor of remand. *See id.* at 566 (“Federal
6 jurisdiction must be rejected if there is any doubt as to the right of removal in the
7 first instance.”).

8 III. ANALYSIS

9 Plaintiffs assert that Thor Motor Coach failed to meet its burden to prove
10 diversity jurisdiction because it did not support its allegation that Plaintiffs are
11 domiciled in California and because the recovery amounts are too speculative to
12 meet the amount-in-controversy requirement.¹⁰ Plaintiffs also request that the
13 Court remand this action pursuant to the principles of comity.¹¹

14 A. Diversity of Citizenship

15 It is well settled that “the party asserting diversity bears the burden of
16 proof.” *Kanter v. Warner-Lambert Co.*, 265 F.3d 853, 857-58 (9th Cir. 2001).
17 For the purpose of diversity jurisdiction, the citizenship of a natural person is
18 determined by United States citizenship and state of domicile. *See Kantor v.*
19 *Wellesley Galleries, Ltd.*, 704 F.2d 1088 (9th Cir. 1983). An individual’s domicile
20 is determined at the time the action is filed, *see Lew*, 797 F.2d at 750, and it is
21 established based upon “a fixed habitation or abode in a particular place, and an
22 intention to remain there permanently or indefinitely,” *Owens v. Huntling*, 115
23 F.2d 160, 162 (9th Cir.1940)). In contrast, “a corporation shall be deemed to be
24 a citizen of every State . . . by which it has been incorporated and of the State . . .
25 where it has its principal place of business.” 28 U.S.C. § 1332(c). At this stage
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27 ¹⁰ *Id.* at 5:17-21 & 6:10-16.

28 ¹¹ *Id.* at 2:9-10.

1 of the case, Thor Motor Coach is merely required to allege diversity — albeit in
2 such a manner that affirmatively alleges the actual citizenship of the relevant
3 parties. *See Kanter*, 265 F.3d at 857.

4 In its Notice of Removal, Thor Motor Coach alleges that Plaintiffs are
5 citizens of California.¹² Thor Motor Coach also pleads that it is an Indiana
6 corporation, with its principal place of business in Indiana.¹³ In its Rule 7.1
7 Disclosure Statement, Thor Motor Coach states that it is organized under the
8 laws of Delaware.¹⁴ Accordingly, Thor Motor Coach is a citizen of both Indiana
9 and Delaware. As Plaintiffs are citizens of California, and Thor Motor Coach is
10 a citizen of Indiana and Delaware, the diversity requirement of 28 U.S.C.
11 § 1332(a)(1) is satisfied.

12 **B. Amount in Controversy**

13 Thor Motor Coach alleges that the amount-in-controversy requirement is
14 satisfied based upon Plaintiffs’ request for restitution, attorney’s fees, and civil
15 penalties.¹⁵ Plaintiffs argue that the amount in controversy is too speculative to
16 satisfy the \$75,000 requirement, because Thor Motor Coach has not “point[ed]
17 to evidence that a jury is likely to award a civil penalty.”¹⁶

18 Courts in the Ninth Circuit routinely consider civil penalties when
19 deciding whether the amount-in-controversy requirement has been satisfied,
20 including in Song-Beverly cases. *See, e.g., Babasa v. LensCrafters, Inc.*, 498 F.3d
21 972, 974 (9th Cir. 2007); *see also Morey v. Louis Vuitton North Am., Inc.*, 561

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23 ¹² Notice of Removal ¶ 3. In Plaintiffs’ Disclosure Statement, Plaintiffs
24 admit that they are citizens of California. Plaintiffs’ Disclosure Statement 1:26-
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25 ¹³ Notice of Removal ¶ 3.

26 ¹⁴ Defendant’s Disclosure Statement 2:10-15.

27 ¹⁵ Notice of Removal ¶ 3; *see* Complaint, Prayer for Relief.

28 ¹⁶ Motion 6:21-23.

1 F. App'x 642, 643 (9th Cir. 2011) (including Song-Beverly civil penalties in an
2 amount-in-controversy calculation). The Ninth Circuit has also held repeatedly
3 that attorneys' fees may "be included in the amount in controversy if they are
4 available to prevailing plaintiffs pursuant to state fee-shifting statutes." *Shoner*
5 *v. Carrier Corp.*, 30 F.4th 1144, 1148 (9th Cir. 2022). The Song-Beverly Act
6 permits a successful plaintiff to recover reasonable attorneys' fees, so attorneys'
7 fees must be included when calculating the amount in controversy here. *See*
8 Cal. Civ. Code § 1794(d).

9 **C. Principles of Comity**

10 Plaintiffs also request the Court to remand this action pursuant to the
11 principles of comity. "Under the principles of comity, federal courts of equity
12 should exercise their discretionary power with proper consideration for the
13 independence of state government in carrying out its governmental functions.
14 However, comity is a doctrine of discretionary abstention." *Hawthorne Sav.*
15 *F.S.B. v. Reliance Ins. Co. of Illinois*, 421 F.3d 835, 852 (9th Cir. 2005), *amended*,
16 433 F.3d 1089 (9th Cir. 2006) (quoting *City & Cnty. of San Francisco v.*
17 *Assessment Appeals Bd. for City & Cnty. of San Francisco, No. 1*, 122 F.3d 1274,
18 1277 (9th Cir. 1997)). But Thor Motor Coach has a statutory right under 28
19 U.S.C. § 1441(b) to remove the instant action to federal court, so the principles
20 of comity do not factor into the Court's analysis of whether remand is
21 appropriate. *See Assessment Appeals Bd.*, 122 F.3d at 1278 ("Because a federal
22 reserve bank has an unfettered right under section 632 to defend in federal court,
23 the district court lacked discretion to remand the case back to state court on the
24 basis of comity.").

25 Because the purchase price of the vehicle at issue exceeded \$250,000,¹⁷
26 the total amount in controversy exceeds the \$75,000 requirement of 28 U.S.C.

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28 ¹⁷ Notice of Removal ¶ 3; Plaintiffs' Disclosure Statement 2:1-5.

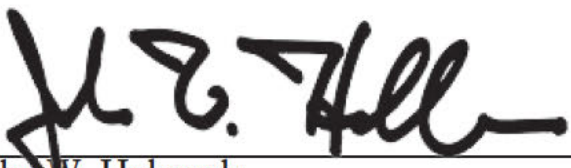
1 § 1332(b). Both the diversity and amount-in-controversy requirements are
2 satisfied, so the Court concludes that removal was proper. Accordingly, the
3 Court **DENIES** the Motion.

4 **IV. DISPOSITION**

5 For the foregoing reasons, Plaintiffs' instant Motion to remand [ECF
6 No. 12] is **DENIED**.

7 **IT IS SO ORDERED.**

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9 Dated: July 21, 2025



John W. Holcomb
UNITED STATES DISTRICT JUDGE